

# Is your Will up to date?

## Estate planning

The first step with every estate plan is to decide who is to get what when you die. If a company or trust or superannuation fund holds assets it is generally best initially to ignore the complexities this causes.

Having worked out what to do, the next step is to work out how. Sometimes this will be easy and will require nothing more than a simple will.

In other cases it is more difficult. Many tax and complicated business structure issues can be involved.

## Complex wills

Much of our time is taken up with advising on and preparing complex wills and associated estate planning documents for business and private clients.

We encourage clients to involve their accountant and other business advisors in the process.

## Simple wills

Sometimes it is easy. Sometimes you can cover all your wishes in a half page will. We like simple solutions when they work.

Many married clients leave everything to each other. After both deaths they leave everything to the children equally.

## Testamentary trusts

A flexible testamentary trust can give the beneficiaries of your estate major tax savings in a flexible user friendly form.

Testamentary trusts offer not only taxation advantages but are also suitable long-term investment structures and properly structured, can offer attractive asset protection.

Without losing the tax advantages of the flexible form a testamentary trust can be easily adapted for asset protection to ensure that to the greatest extent possible the property you leave to your family will be kept safe for their lifetime no matter what misfortunes, such as divorce or bankruptcy may befall them.

## Superannuation

We often help clients navigate the maze of tax, issues arising with their self managed superannuation funds.

We work with our client's accountants and financial planners to achieve the best outcome from the legal, tax and financial planning perspectives.

We keep up to date with current laws and opportunities in blending superannuation issues into a client's overall estate plan.

## Family trusts

Assets for estate planning in family discretionary trusts pose special problems. While the person who established the trust is alive there are generally no difficulties. That person generally controls the trust and can decide who is entitled to both the income and capital.

Potential difficulties arise with the next generation where there are more than two children. A majority of children can, quite legally, take all the assets themselves. The minority can be left with no assets and no remedy.

Having been faced with this issue on many occasions over the years we have developed methods to ensure equality between the children.

## Guardians for the children

When the children are young, guardians are often appointed to act if both parents die before the children become adults.

Clients often make provision for non-custodial guardians and for legacies to assist guardians with accommodation for the extra children.

## Power of attorney

An enduring power of attorney is usually made at the same time as a will. This protects the family if one or both parents suffer loss of mental capacity through illness or accident.

## Contacts

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## Guardianship appointments and advance care directives

While a power of attorney gives authority to deal with business asset and investment issues it does not help with medical and health care issues.

These can be dealt with through the appointment of family or friends as guardians to make medical and lifestyle decisions for you if you can not.

Sometimes people prefer a detailed advance care directive that must be followed, which usually requires input from your doctor.

## Updating your will

You should review your will every time something significant happens in your family or business. If nothing changes you should still check every couple of years to make sure your will still says what you want it to.

Copies of all wills made by us are now stored electronically. This makes simple alterations easy and therefore relatively inexpensive. The stored copy can be altered and reprinted.

## Our fees

We aim to provide value to our clients. We always aim to match our fee to the amount of work involved and its importance to our client.

In most cases we do not advise without a previously agreed cap on our fees.

In rare cases where we are unable to provide a cap we charge on the basis of the time reasonably spent.

We always try to minimise the time spent on a matter but without losing sight of its importance.

After your first visit we will send you a cost letter which sets out details of how our fees are calculated and, in most cases, we will give you an estimate.

## Out of pocket expenses

We give you an estimate of any out of pocket expenses that are likely to be incurred such as search fees.

Normally we do not charge for internal expenses such as phone fax and photocopying.

## GST and deductions

To the extent that our fees relate to business issues clients should be entitled to recover the GST component as an input tax credit.

Some of our fees may also entitle clients to an income tax

deduction.

We look forward to helping you help your clients.

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